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10/726,425	12/03/2003	Henry K. Hardcastle III	01188.00.0153	5811

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EXAMINER

FAYYAZ, NASHMIYA SAQIB

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/726,425	Applicant(s) HARDCASTLE, HENRY K.	
	Examiner Nashmiya S. Fayyaz	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/14/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-189 is/are pending in the application.
- 4a) Of the above claim(s) 3-16 and 30-189 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 17-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group I in the reply filed on 4/14/09 is acknowledged.
2. Claims 3-16 and 30-189 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/14/09.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zerlaut et al- US Patent # 4,423,469. As to claim 1, Zerlaut et al describes a prior art device including an array of test apparatus (array of lamps) which concentrate solar radiation on a test specimen (solar collectors), each apparatus including a temperature control system (circulating hot water or cooling air pump in embodiment of fig. 3 and 4) and where the lamps are exposed to different solar radiation intensity due to the unequal distances to the plane of the lamp array, see col. 1, lines 44 et seq. It is noted that Zerlaut et al fail to specify the assembly as for characterizing weathering reciprocity. However, the usage of solar simulators to characterize weathering reciprocity is old and well-known since solar radiation is a cause of weathering. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have designated the solar simulators disclosed by Zerlaut et al as an assembly for characterizing weathering reciprocity since solar radiation is known to cause weathering. As to claim 2, Zerlaut et al does not further describe the prior art device as including a target board or concentrating device or a specific temperature adjustment device. However, in the improvement described by Zerlaut et al, there is provided a target board (support member 103) and concentrating device (frustoconical shape of lamp 61) and an air pump (not shown) for emitting cooling air, see figs. 1-10. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have

included any of these additional elements to the prior art device described since one of ordinary skill in the art would recognize the importance of including a support for the test specimen as well as concentrating the radiation for maximizing intensity and controlling the temperature of the device via the air pump emitting cooling air.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 2 and 17-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, on line 3, it is unclear if there is one apparatus or more than one since the plural of apparatus is not used. Further, on line 9, it is unclear if the "apparatus" is the same as those of line 3 or are these different "sets"? In claim 2, on lines 7 and 8, it is unclear if the apparatus for adjusting temperature differs from the temperature control system of claim 1. In claim 17, each instance of "the target board" is unclear since each "apparatus" includes a target board as in claim 2. On line 12, "the apparatus" and each instance of "the test specimen" lacks clear antecedent basis. In claim 20, "the target board" on lines 2-3 lacks clear antecedent basis. In claim 21, on line 2, "the panel" lacks antecedent basis. In

claims 22-25, and 27, on line 1, "the apparatus" lacks clear antecedent basis. In claim 23, on line 4, "the specimen" lacks clear antecedent basis.

Allowable Subject Matter

8. Claims 17-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/N. S. F./

Examiner, Art Unit 2856

/Hezron Williams/
Supervisory Patent Examiner,
Art Unit 2856